

ORDINANCE NO. 2002-022

AN ORDINANCE OF THE BOARD OF COUNTY
COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA,
AMENDING SECTIONS 2-181 THROUGH 2-187 OF THE
PALM BEACH COUNTY CODE AND REPLACING
ORDINANCE NO. 79-3, AS AMENDED BY ORDINANCES
91-7, 98-53 AND 01-016; PROVIDING FOR TITLE;
PROVIDING FOR DECLARATION OF NEED; PROVIDING
FOR CREATION OF HOUSING FINANCE AUTHORITY;
PROVIDING FOR MEMBERSHIP; PROVIDING FOR
CONDUCT OF MEETINGS; PROVIDING FOR REMOVAL OF
MEMBERS; PROVIDING FOR POWERS; PROVIDING FOR
CONTRACTING AUTHORITY; PROVIDING FOR
DISCLOSURE OF CONFLICTS OF INTEREST; PROVIDING
FOR THE ISSUANCE OF BONDS; PROVIDING FOR RULES
AND REGULATIONS; PROVIDING FOR SEVERABILITY;
PROVIDING FOR APPLICABILITY AND PROVIDING FOR
EFFECTIVE DATE.

WHEREAS, the legislature of the State of Florida enacted the Florida Housing Finance Authority Law, Florida Statute 159.601 - 159.623, in order to help alleviate a shortage of affordable housing in the State of Florida. The Florida Housing Finance Authority Law authorizes counties to create a Housing Finance Authority as a separate public body corporate and politic; and

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida declared a need for the establishment of a Housing Finance Authority in Palm Beach County pursuant to Resolution R-79-1150; and

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida enacted Ordinance 79-3 and created the Housing Finance Authority of Palm Beach County. Said Ordinance and amending Ordinances 91-7, 98-53 and 01-016, are codified in Sections 2-181 through 2-187 of the Palm Beach County Code; and

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida has determined there is a need to further amend Sections 2-181 through 2-187 of the Palm Beach County Code.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

I. - **AMENDMENT AND REPLACEMENT:** This Ordinance amends Sections 2-181 through 2-187 of the Palm Beach County Code and replaces Ordinance 79-3 as amended by Ordinances 91-7, 98-53 and 01-016 with the following:

SECTION 1 - TITLE: This Ordinance is enacted pursuant to the Florida Housing Finance Authority Law, F.S. 159.601 through 159.623, as may be amended, Chapter 78-89, Laws of Florida, and shall be known as the "Ordinance Creating The "Housing Finance Authority of Palm Beach County, Florida Ordinance".

SECTION 2 - DECLARATION OF NEED: It is hereby ascertained and found that there is a shortage of affordable housing and of capital for investment in affordable housing in Palm Beach County, Florida (the "County"), and there is hereby declared that there is a need for a housing finance authority in the County to alleviate and remedy the aforementioned affordable housing and investment capital shortage.

SECTION 3 - CREATION OF AUTHORITY: There is hereby created a separate public body corporate and politic to be known as the Housing Finance Authority of Palm Beach County, Florida (the "Housing Finance Authority"), consisting of seven (7) members to be appointed by the Board of County Commissioners and which is directed to carry out and exercise, without limitation except as is herein expressly stated or as provided in the Act Florida Housing Finance Authority Law, all powers and authority set forth in and contemplated by the Act Florida Housing Finance Authority Law. The Housing Finance Authority shall have the power to make and issue such regulations, by-laws, and rules as it deems necessary to implement its powers and functions. Pursuant to the Act, the Authority shall not transact any business or exercise any powers under the Act until the Board of County Commissioners passes a resolution declaring the need for the Authority to function in order to alleviate the shortage of housing and capital for investment in housing in its area of operation.

SECTION 4 - MEMBERSHIP: Each commissioner of the Board of County Commissioners shall nominate one (1) person to serve on the Housing Finance Authority. The nomination shall be subject to the confirmation of a majority vote of the Board of County Commissioners. The membership of the Housing Finance Authority should represent the following components of the affordable housing industry: labor (organized labor or trade association); financial (banking or similar institution or tax or financial professionals, such as attorney, accountant, or financial planner); commerce (business owner or representative or business organization representative); and low income or

affordable housing advocates (resident of affordable housing, representative of an organization that advocates on behalf of low income persons for affordable housing or real estate professional specializing in affordable housing). In compliance with Florida Statute 159.605(1), as may be amended, at least a majority of the membership shall have knowledge in labor, finance or commerce, as defined within this Ordinance. All members of the Housing Finance Authority must be residents of the Palm Beach County. The Board of County Commissioners shall designate the Chairman of the Authority; and until the members of the Authority are appointed, the Board of County Commissioners and the Chairman of the Authority shall have full authority to carry out the powers of the Authority under the Act. Not less than three (3) of the members of the Authority to be appointed by the Board of County Commissioners shall be knowledgeable in one of the following fields: labor, finance or commerce. The terms of the members shall be four (4) years each, and shall continue to be staggered in accordance with prior ordinances. except that the terms of the initial members shall be as follows: two (2) members shall serve a term of one (1) year; one (1) member shall serve a term of two (2) years; one (1) member shall serve a term of three (3) years; and one (1) member shall serve a term of four (4) years, and a A member shall hold office until his or her successor has been appointed and has qualified unless such member has been removed pursuant to Section 6 herein. Each vacancy as it occurs shall be filled for the remainder of the unexpired term. A member may not serve more than two (2) consecutive complete four (4) year terms, after the effective date of this Ordinance. If a member completes the term of a member who has been removed or has resigned, such completion of a partial term shall not be counted toward the two (2) consecutive term limit. A certificate of the appointment or reappointment of any member shall be filed with the Clerk of the Circuit Court, and the certificate shall be conclusive evidence of the due and proper appointment of the member. A member shall receive no compensation for his or her services, but shall be entitled to necessary expenses, including traveling expenses, incurred in the discharge of his duties. Within sixty (60) days of appointment, new members shall schedule a training session with the County Attorney's Office on member's obligations pursuant to this Ordinance, including, but not limited to, conflicts of interest, financial disclosure, Florida Sunshine Law and the Florida Public

Records Law.

In April June of every year, commencing in 2002, the members of the Housing Finance Authority shall nominate a Chairperson, and submit such nomination to the Board of County Commissioners for approval. No member may serve more than two (2) consecutive complete one (1) year terms as Chairperson after the effective date of this Ordinance. The Board of County Commissioners retains the ultimate authority to designate a Chairperson of the Housing Finance Authority.

SECTION 5 - CONDUCT OF MEETINGS: The powers of the Housing Finance Authority granted by the Act shall be vested in the members of the Authority to office from time to time. Four (4) A majority of the members currently appointed, shall constitute a quorum, and action may be taken by the Housing Finance Authority upon a vote of a majority of the members present. All meetings shall be governed by Roberts Rules of Order. The Housing Finance Authority shall comply with the Florida Sunshine Law. Reasonable public notice of all meetings shall be provided and all such meetings shall be opened to the public at all times. Minutes of all meetings shall be maintained and copies of such minutes shall be forwarded to the Board of County Commissioners within forty-five (45) days of the meeting date.

SECTION 6 - REMOVAL OF MEMBERS: In compliance with Florida Statute 159.607, as may be amended, a member of the Housing Finance Authority may be removed without cause by a three-fifths vote (at least five (5) votes) of the Board of County Commissioners. A member of the Housing Finance Authority may be removed for neglect of duty or misconduct in office by a majority vote of the Board of County Commissioners. A member removed for cause, may only be removed after he or she has been given a copy of the charges at least ten (10) days prior to the hearing thereon and has had an opportunity to be heard in person or by counsel. If a member is removed for cause, a record of the proceedings, together with the charges and findings thereon, shall be filed in the Office of the Clerk of the Circuit Court. If a member is removed pursuant to this Section, such removal shall occur immediately or at the time specified by the Board of County Commissioners.

SECTION 7 - ATTENDANCE: Lack of attendance at meetings shall constitute

neglect of duty. Lack of attendance is defined as failure to attend three (3) consecutive meetings or a failure to attend more than one-half of the meetings scheduled in a calendar year. Participation for less than three-fourths of a meeting shall be the same as a failure to attend a meeting. Excused absences due to illness, absence from the County, or personal hardship, if approved by a majority vote of the Housing Finance Authority, shall not constitute lack of attendance. Excused absences shall be entered into the minutes at the next regularly scheduled meeting of the Board.

SECTION 8 - CONFLICT OF INTEREST - DISCLOSURES: In compliance with Florida Statute 159.606, as may be amended, no member or employee of the Housing Finance Authority shall acquire any interest, direct or indirect, in any qualifying housing development or in any property included or planned to be included in such a development, nor shall a member or employee have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any qualifying housing development. If any member or employee of the Housing Finance Authority owns or controls, through acquisition prior to membership on the Housing Finance Authority, an interest, direct or indirect in any property included or planned to be included in any qualifying housing project, the member or employee shall immediately disclose the same in writing to the Housing Finance Authority. Such disclosure shall be entered upon the minutes of the Housing Finance Authority. Failure to disclose such interest shall constitute misconduct in office.

In compliance with Florida Statute 159.609, as may be amended, the Housing Finance Authority shall not finance the acquisition, construction, any reconstruction, or rehabilitation of any qualifying housing development for its own profit or as a source of revenue to the state or any local governmental unit.

In addition, the provisions of Palm Beach County Ethics Resolution R-94-693, as may be amended, shall apply to Housing Finance Authority members.

All members of the Housing Finance Authority shall file with the Board of County Commissioners full and public disclosure of their financial interest, substantially in the form of the disclosure required of elected public officials pursuant to Section 8, Article II of the State of Florida Constitution and Florida Statute Section 112.3144, as may be amended.

No later than May 1st of each year, County Administration shall mail a copy of the form prescribed for compliance with full and public disclosure to Housing Finance Authority members. Housing Finance Authority members shall return the completed form no later than July 1st of each year. Failure to file a form may constitute neglect of duty.

SECTION 9 - CONTRACTS OF THE AUTHORITY: All contracts of the Housing Finance Authority for the purchase of goods and services in excess of \$10,000 shall be submitted to and approved, in each instance, by the Board of County Commissioners. All purchases of goods and services shall be done in accordance with the competitive processes as outlined in County ordinances and policies, including the rotation process utilized for bond counsel and bond underwriters.

SECTION 10 - BONDS OF THE AUTHORITY: Prior to sale of any bonds, such bonds shall be submitted to and approved, in each instance, by the Board of County Commissioners and the award of the bonds, whether sold through public sale or negotiated sale, shall also be approved by the Board of County Commissioners.

SECTION 11 - RULES AND REGULATIONS: Any All rules or regulations to be promulgated by the Housing Finance Authority, including but not limited to, rules setting forth standards or criteria for determining whether persons are eligible persons in the program or projects are eligible projects and rules establishing criteria for scoring applications and authorizing bond issues as the same are initially established or are changed or amended from time to time, shall be submitted to and approved, in each instance, by the Board of County Commissioners. The Housing Finance Authority, when determining which projects and programs to fund, shall coordinate with the County, through its Departments of Housing and Community Development and Planning, Zoning and Building and its Commission on Affordable Housing, to ensure that affordable housing is placed in the areas where the need has been identified by current studies.

II. **SEVERABILITY:** If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

III. **APPLICABILITY:** This ordinance shall constitute a uniform law applicable to all unincorporated and incorporated areas in Palm Beach County to the extent provided by

1 the Act or other applicable provisions of law.

2 **IV. EFFECTIVE DATE:** The provisions of this Ordinance shall become effective upon
3 filing with the Department of State.

4 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
5 County, Florida, on this the 21 day of May, 2002.

6 DOROTHY H. WILKEN, CLERK

7 PALM BEACH COUNTY, FLORIDA, BY ITS
8 BOARD OF COUNTY COMMISSIONERS

9 By: Linda C. Wilken
10 Deputy Clerk

11 By: W. Newell
12 Warren H. Newell, Chairman

13 APPROVED AS TO FORM AND
14 LEGAL SUFFICIENCY

15 By: J. R. H.
16 County Attorney

17 G:\WPDATA\ENG\TKF\Housing-Finance-Authority-Ord.2002.wpd (05-21-02)

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, DOROTHY H. WILKEN, ex-officio Clerk of the
Board of County Commissioners certify this to be a
true and correct copy of the original filed in my office
7 on May 21, 2002
DATED at West Palm Beach, FL on 6/13/02.
DOROTHY H. WILKEN, Clerk
By: W. Newell D.C.